

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARY SMITH,

Plaintiff,

v.

CDCR EDUCATION DEPARTMENT,

Defendant.

No. 1:20-cv-00716-NONE-HBK (PC)

ORDER DISMISSING ACTION DUE TO
PLAINTIFF'S FAILURE TO PROSECUTE

(Doc. No. 31)

Plaintiff Gary Smith initiated this action proceeding *pro se* by filing a prisoner civil rights action under 42 U.S.C. § 1983. On September 20, 2021, the court granted defendants' motion to dismiss but permitted plaintiff thirty days from the service date of the order to file an amended complaint. (Doc. No. 31 at 2). The district court's order warned plaintiff that the failure to timely file an amended complaint "will result in the dismissal of the action for failure to prosecute without further notice." (*Id.*). As of the date of this order, plaintiff has not filed an amended complaint and the deadline to do so has expired. (*See* docket).

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1 Accordingly, it is ORDERED:

2 1. This action is dismissed for the reasons set forth in the court's September 20, 2021
3 order and for lack of prosecution.

4 2. The Clerk of Court shall terminate any pending motions, enter judgment accordingly,
5 and close this case.

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7 IT IS SO ORDERED.

8 Dated: November 16, 2021


UNITED STATES DISTRICT JUDGE